

Local Rule of Bankruptcy Procedure 4000. IMPOSITION, CONTINUATION OR STATUS OF THE AUTOMATIC STAY.

(a) Imposition/Continuation Motions Scheduled for Hearing Upon Filing

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1. The following motions to impose or to continue the automatic stay shall not require negative notice language but instead shall be scheduled for an accelerated hearing upon filing:
 - (A) Motion to impose automatic stay pursuant to §362(c)(4)(B) of the Code;
 - (B) Motion to impose automatic stay by small business debtor pursuant to §362(n)(2) of the Code;
 - (C) Motion to continue automatic stay in consecutive individual case under chapter 7, 11 or 13 pursuant to §362(c)(3)(B); and
 - (D) Motion to continue automatic stay on personal property of individual debtor by trustee pursuant to §362(h)(2) and §521(a)(6).
 2. A stay imposition or continuation motion shall disclose in the body of the motion the following information regarding the dismissal of the debtor's prior bankruptcy case(s):
 - (A) the prior case number and the court in which it was filed;
 - (B) the circumstances upon which the dismissal was based;
 - (C) whether a request for relief from automatic stay had been granted or was pending in the prior case at the time of the dismissal;
 - (D) the identity and mailing address for any attorney (or pro se creditor) who had filed a request for relief from automatic stay for any party in the prior case; and
 - (E) the identity and mailing address for any attorney who had filed a notice of appearance in the prior case;
 3. A stay imposition or continuation motion shall contain a certificate of service reflecting service of the motion upon the master mailing list (matrix) as constituted by the Court on the date of service if the stay is to be imposed or continued as to all parties in the case, or otherwise in accordance with LBR 9013(f), and in a manner consistent with Fed. R. Bankr. P. 7004(b); provided, however, that the motion shall also be served upon any attorney who had filed a request for relief from automatic stay or a notice of appearance in the debtor's prior bankruptcy case(s) and any party who filed a proof of claim in debtor's prior bankruptcy case shall be served at the address disclosed by such claimant in its prior proof of claim.

4. The motion must be accompanied by:
 - (A) a proposed deadline order which substantially conforms to TXEB Local Form 4000-a; and
 - (B) a proposed order granting the requested relief which substantially conforms to TXEB Local Form 4000-b.
5. Consideration of any stay imposition or continuation motion shall either be governed by an “Order Establishing Deadline for Objection to Motion for Continuation/Imposition of Automatic Stay and Setting Possible Hearing Date on Such Motion” [TXEB Local Form 4000-a] through which the Court shall establish a deadline for filing an objection to the motion and a potential hearing date for the motion which shall be served upon the matrix or the Court shall proceed to schedule an accelerated hearing on the Motion upon filing.
6. If a hearing is so scheduled by the Court without the establishment of a deadline for objections, any such objection to the stay imposition or continuation motion must be filed and served no later than two (2) business days prior to the scheduled hearing; provided, however, that if the hearing is held on notice of five (5) business days or less, no formal objection shall be required.

(b) Petition-Date Certification of Compliance: Lease of Residential Real Property

1. A petition-date certification of compliance necessary for a debtor to invoke the protection of the automatic stay regarding a lease of real property in which the debtor resides as a tenant pursuant to §362(l)(1) – in addition to the requirements imposed by the Code – shall contain:
 - (A) the following 15-day negative notice language, which must be in boldface, large font and located in the text of the motion -- preferably in the first paragraph:

THIS PETITION DATE CERTIFICATION IS SELF-EXECUTING AND SHALL DEFER THE APPLICABILITY OF 11 U.S.C. §362 (b)(22) TO THIS LEASE OF RESIDENTIAL REAL PROPERTY FOR A PERIOD OF 30 DAYS FROM THE PETITION DATE ABSENT AN ORDER OF THE COURT TO THE CONTRARY. NO HEARING WILL BE CONDUCTED REGARDING THIS CERTIFICATION UNLESS A WRITTEN OBJECTION IS FILED WITH THE CLERK OF THE UNITED

STATES BANKRUPTCY COURT AND SERVED UPON THE PARTY FILING THIS PLEADING WITHIN FIFTEEN (15) DAYS FROM THE DATE OF SERVICE UNLESS THE COURT SHORTENS OR EXTENDS THE TIME FOR FILING SUCH OBJECTION. IF AN OBJECTION IS FILED AND SERVED IN A TIMELY MANNER, THE COURT WILL THEREAFTER SET A HEARING. IF YOU FAIL TO APPEAR AT THE HEARING, YOUR OBJECTION MAY BE STRICKEN. THE COURT RESERVES THE RIGHT TO SET A HEARING ON ANY MATTER.

and

(B) contain a certificate of service reflecting service of the petition date certification upon the affected lessor.

2. A lessor objecting to a debtor's petition-date certification of compliance may waive the 10-day hearing requirement, if desired, in the caption of the objection. If a waiver is not filed, the Court will convene a hearing within the required 10 days in the division most convenient to the Court.

Title Example: Objection to Debtor's Petition-Date Certification of Compliance Regarding Lease of Residential Real Property, Waiver of 10-Day Hearing Requirement, and Request for Hearing in Beaumont, Texas.

(c) Post-Petition Certification of Compliance: Lease of Residential Real Property

1. A post-petition certification of compliance necessary for a debtor to continue the protections of the automatic stay regarding a lease of real property in which the debtor resides as a tenant for a period beyond 30 days from the petition date pursuant to §362(l)(2) of the Code – in addition to the requirements imposed by the Code – shall contain:

(A) the following 15-day negative notice language, which must be in boldface, large font and located in the text of the motion -- preferably in the first paragraph:

THIS POST-PETITION CERTIFICATION IS SELF-EXECUTING AND SHALL DEFER THE APPLICABILITY OF 11 U.S.C. §362 (b)(22) TO THIS LEASE OF RESIDENTIAL

REAL PROPERTY FOR THE DURATION OF THIS BANKRUPTCY CASE ABSENT AN ORDER OF THE COURT TO THE CONTRARY. NO HEARING WILL BE CONDUCTED REGARDING THIS CERTIFICATION UNLESS A WRITTEN OBJECTION IS FILED WITH THE CLERK OF THE UNITED STATES BANKRUPTCY COURT AND SERVED UPON THE PARTY FILING THIS PLEADING WITHIN FIFTEEN (15) DAYS FROM THE DATE OF SERVICE UNLESS THE COURT SHORTENS OR EXTENDS THE TIME FOR FILING SUCH OBJECTION. IF AN OBJECTION IS FILED AND SERVED IN A TIMELY MANNER, THE COURT WILL THEREAFTER SET A HEARING. IF YOU FAIL TO APPEAR AT THE HEARING, YOUR OBJECTION MAY BE STRICKEN. THE COURT RESERVES THE RIGHT TO SET A HEARING ON ANY MATTER.

and

(B) contain a certificate of service reflecting service of the post-petition certification upon the affected lessor.

2. A lessor objecting to a debtor's post-petition certification of compliance may waive the 10-day hearing requirement, if desired, in the title of the objection. If a waiver is not filed, the Court will convene a hearing within the required 10 days in the division most convenient to the Court.

Title Example: Objection to Debtor's Post-Petition Certification of Compliance Regarding Lease of Residential Real Property, Waiver of 10-Day Hearing Requirement, and Request for Hearing in Beaumont, Texas.

(d) Requests to Confirm Status of Automatic Stay

Any request for the Court to confirm the status of the automatic stay, including a request for an order pursuant to §362(c)(4)(A)(ii) to confirm that the automatic stay is not in effect, or a request for an order pursuant to §362(j) to confirm that the automatic stay has been previously terminated, shall be in writing and filed with the Clerk. Such requests shall not require negative notice language, nor a certificate of service, but shall require a proposed order substantially conforming to TXEB Local Form 4000-d.

(e) **Notice of Termination of Automatic Stay**

Any creditor which asserts that the automatic stay has been terminated by operation of law as against its interests shall file a Notice of Termination with the Court to evidence such termination of the automatic stay. Such Notice of Termination shall cite the statutory basis for the asserted termination.